

**RULES
OF
TENNESSEE. DEPARTMENT OF SAFETY
DRIVER CONTROL DIVISION**

**CHAPTER 1340-1-4
TENNESSEE DRIVER IMPROVEMENT PROGRAM**

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1340-1-4-.01 PURPOSE.

- (1) To establish a uniform system for conducting a Driver Improvement Program whereby a driver may, after notice and the opportunity for a hearing to contest the records of the Department of Safety, have the driver's driving privileges suspended when the records of the Department indicate that the driver has been convicted with such frequency for moving traffic violations or contributing to the occurrence of accidents as to indicate a disrespect for traffic laws or that the driver is accident prone, or when the Department has reason to believe that the driver is unable to safely operate a motor vehicle due to physical or mental disability.

Authority: T.C.A. §§ 55-50-202 and 55-50-505. **Administrative History:** Repeal and new rule filed March 12, 1986; effective June 14, 1986. Repeal and new rule filed August 5, 1996; effective December 27, 1996. Repeal and new rule filed April 18, 2005; effective August 26, 2005.

1340-1-4-.02 ASSIGNMENT OF POINT SYSTEM NUMERICAL VALUE.

- (1) The Department of Safety's driver point system is designed to identify those drivers whose records reflect a continuous disrespect for traffic laws, and a disregard for the safety of other persons on the highways.
- (2) To administer this program, a point value will be assessed for each accident and moving violation conviction.
- (3) Upon receipt of a moving traffic conviction notice from any court or the receipt by the Department of a traffic crash report indicating a driver contributed to the occurrence of the crash, the Department shall charge points to the driver's record as set out herein. Convictions of moving traffic violations which occurred more than two (2) years prior to the Department's receipt of such report or notice shall not be used within the Driver Improvement Program.

Authority: T.C.A. §§55-50-505. **Administrative History:** Repeal and new rule filed March 12, 1986; effective June 14, 1986. Repeal and new rule filed August 5, 1996; effective December 27, 1996. Amendment filed April 18, 2005; effective August 26, 2005.

1340-1-4-.03 SCHEDULE OF POINTS.

- (1) Moving Traffic Violations Points
 - (a) Tickets and court abstracts where speed not indicated

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(Rule 1340-1-4-.03, continued)

on source documents	
(b) Speeding 1 through 5 m.p.h. in excess of speed zone	1
(c) Speeding 6 through 15 m.p.h. in excess of speed zone	3
(d) Speeding 16 through 25 m.p.h. in excess of speed zone	4
(e) Speeding 26 through 35 m.p.h. in excess of speed zone	5
(f) Speeding 36 through 45 m.p.h. in excess of speed zone	6
(g) Speeding 46 and above in excess of speed zone	8
(h) Reckless driving	6
(i) Signs and control devices - failing to obey traffic instructions	4
(j) Improper passing - passing where prohibited	4
(k) Wrong way, side or direction	4
(l) Following improperly	3
(m) Failure to yield the right-of-way	4
(n) Making improper turn	4
(o) Failure to signal intention to change vehicle direction	3
(p) Passing school, church or youth bus taking on or discharging passengers	8
(q) Following emergency vehicles unlawfully	3
(r) Speed less than posted minimum	3
(s) Operating without being licensed or certificated or without license or certificate required for type of vehicle operated	3
(t) Operating without being licensed or certificated or without license or certificate required for type of vehicle operated, under suspension, revocation or cancellation	8
(u) Operating without license or certificate in possession	2
(v) Careless or negligent driving	4
(w) Violation of driver license or certificate restrictions	6
(x) Reckless endangerment by vehicle - misdemeanor	8

(Rule 1340-1-4-.03, continued)

(y)	Miscellaneous traffic violations-failing to maintain control, improper control, etc., or any offense involving the operation of a motor vehicle not herein specified	3
(z)	Leaving scene of an accident (property damage only)	5
(aa)	Failure to report an accident (property damage only)	4
(bb)	Failure to yield to emergency vehicles	6
(cc)	Failure to stop at railroad crossing	6
(dd)	Speeding in construction zone – non commercial	
1.	Tickets and court abstracts where speed not indicated	4
2.	Speeding 1 through 5 m.p.h. in excess of posted speed	2
3.	Speeding 6 through 15 m.p.h. in excess of posted speed	4
4.	Speeding 16 through 25 m.p.h. in excess of posted speed	5
5.	Speeding 26 through 35 m.p.h. in excess of posted speed	6
6.	Speeding 36 and above in excess of posted speed	8
(2)	Contributing to Occurrence of Accidents	
(a)	Contributing to an accident involving property damage	3
(b)	Contributing to an accident resulting in bodily injury	4
(c)	Contributing to an accident resulting in another's death	8
(3)	Driving while license canceled	8
(4)	Fleeing Law Enforcement Officer (Misdemeanor)	8
(5)	Child endangerment (misdemeanor)	8
(6)	The following points are for Commercial Vehicles:	
(a)	Speeding in a commercial vehicle, speed not indicated	4
(b)	Speeding in a commercial vehicle, 1-5 m.p.h. in excess	2

(Rule 1340-1-4-.03, continued)

	of posted speed zone	
(c)	Speeding in a commercial vehicle, 6-14 m.p.h. in excess of posted speed zone	4
(d)	Speeding in a commercial vehicle, 15-25 m.p.h. in excess of posted speed zone, excessive speeding	5
(e)	Speeding in a commercial vehicle, 26-35 m.p.h. in excess of posted speed zone, excessive speeding	6
(f)	Speeding in a commercial vehicle, 36-45 m.p.h. in excess of posted speed zone, excessive speeding	7
(g)	Speeding in a commercial vehicle, 46 m.p.h. and above in excess of posted speed zone, excessive speeding	8
(h)	Excessive speeding (15 m.p.h. or more above posted speed limit in a commercial vehicle), speed not indicated on court document, but on citation	6
(i)	Reckless driving	7
(j)	Improper passing	4
(k)	Improper or erratic lane change	5
(l)	Following Improperly	4
(m)	Careless or Negligent Driving	5
(n)	Failure to Obey Traffic Instructions	4
(o)	Wrong Way, Side or Direction	4
(p)	Failure to yield right of way	4
(q)	Making improper turn	4
(r)	Failure to signal direction	3
(s)	Passing stopped school, church or youth bus taking on or discharging passengers	6
(t)	Following emergency vehicle unlawfully	3
(u)	Speed less than posted minimum	4
(v)	Miscellaneous traffic violations	3
(w)	Failure to yield to emergency vehicles	6
(x)	Failure to stop at railroad crossing	8

(Rule 1340-1-4-.03, continued)

- (7) The following points are for offenses committed while driving commercial vehicles in a construction zone or while hauling hazardous material:
- (a) Speeding in a commercial vehicle, speed not indicated 5
 - (b) Speeding in a commercial vehicle, 1-5 m.p.h. in excess of posted speed zone 3
 - (c) Speeding in a commercial vehicle, 6-14 m.p.h. in excess of posted speed zone 5
 - (d) Speeding in a commercial vehicle, 15-25 m.p.h. in excess of posted speed zone, excessive speeding 6
 - (e) Speeding in a commercial vehicle, 26-35 m.p.h. in excess of posted speed zone, excessive speeding 7
 - (f) Speeding in a commercial vehicle, 36-45 m.p.h. in excess of posted speed zone, excessive speeding 8
 - (g) Speeding in a commercial vehicle, 46 m.p.h. and above in excess of posted speed zone, excessive speeding 9
 - (h) Excessive speeding (15 m.p.h. or more above posted speed limit in a commercial vehicle), speed not indicated on court document, but on citation 7
 - (i) Reckless driving 8
 - (j) Improper passing 5
 - (k) Improper or erratic lane change 6
 - (l) Following Improperly 5
 - (m) Careless or Negligent Driving 6
 - (n) Failure to Obey Traffic Instructions 5
 - (o) Wrong Way, Side or Direction 5
 - (p) Failure to yield right of way 5
 - (q) Making improper turn 5
 - (r) Failure to signal direction 4
 - (s) Passing stopped school, church or youth bus taking or discharging passengers 8
 - (t) Following emergency vehicle unlawfully 3
 - (u) Speed less than posted minimum 5

(Rule 1340-1-4-.03, continued)

(v) Miscellaneous traffic violations

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Authority: T.C.A. §55-50-505. **Administrative History:** Repeal and new rule filed March 12, 1986; effective June 14, 1986. Repeal and new rule filed August 5, 1996; effective December 27, 1996. Amendments filed April 18, 2005; effective August 26, 2005.

1340-1-4-.04 REVOCATION OR SUSPENSION OF DRIVER LICENSE OR CERTIFICATE FOR DRIVING FOR MOVING VIOLATION CONVICTIONS OR CONTRIBUTING TO THE OCCURRENCE OF A TRAFFIC CRASH.

- (1) (Paragraphs 1-8 of this Rule shall apply only to drivers who are eighteen (18) years of age or older on the event date of the crash or violation.) An advisory letter shall be mailed to each driver who accumulates six (6) or more, but fewer than twelve (12) points within a one (1) year period. The letter shall inform the driver of the point system and advise the driver of the points that the driver has accumulated and the consequences of accumulating more points. A driver shall receive only one (1) advisory letter of caution within a five (5) year period.
- (2) When a driver has accumulated twelve (12) or more points within a one (1) year period, the Department shall issue a notice of proposed suspension stating the grounds for such suspension and that the driver shall be required to appear at an administrative hearing to contest the proposed suspension. The Department shall provide the driver a hearing before a hearing officer on the date and at the time specified in the notice.
- (3) Proposed suspension action may also be initiated toward those drivers who are deemed to be accident prone. A driver is deemed to be accident prone when a periodic review of his or her driving record reveals three (3) or more avoidable accidents within a one (1) year period. The determination of whether an accident is avoidable or unavoidable rests with the Department.
- (4) Failure to attend a hearing pursuant to this chapter shall result in a six (6) month suspension unless the driver is currently undergoing, or has previously undergone within a five (5) year period, Driver Improvement Program suspension action, in which case the suspension period shall be for twelve (12) months.
- (5) When a driver offers valid proof that an error in record keeping has occurred, and when the correction of this error would lower his or her point accumulation to less than twelve (12), then the suspension action shall be withdrawn. When a driver requesting a hearing fails to establish proof that an error in the record keeping has occurred, then the suspension action shall stand.
- (6) Calculation of points - Each time a crash or violation is posted to the driver's record, the computer shall scan back for a period of twenty-four (24) months from the posted date to determine whether the driver has accumulated twelve (12) or more points within a twelve (12) month period to warrant a proposed suspension notice.
 - (a) Any crash or violation with an event date prior to the date of the completion of the defensive driving course shall be posted as points toward the twelve (12) points calculated as set forth in paragraph (6).
 - (b) Any crash or violation with an event date subsequent to the date of completion of the defensive driving course shall be calculated as a violation of probation and may be grounds for revocation of probation.
- (7) First Offenders

(Rule 1340-1-4-.04, continued)

- (a) Any driver not suspended entering the Driver Improvement Program who has not been involved in the program within a five (5) year period shall be treated as a first offender.
- (b) A notice of proposed suspension shall be issued to first offender drivers who accumulate between twelve (12) and twenty (20) points within a twelve (12) month period as calculated pursuant to Paragraph (6). The twelve (12) month period shall be calculated retroactively from the date each crash or violation is posted in accordance with Paragraph (6). The notice shall advise the driver that the driver has accumulated sufficient points in a twelve (12) month period to be placed in the Driver Improvement Program; that the driver shall be required to appear at an administrative hearing to contest the proposed suspension of six (6) months; and that the driver is eligible as a first offender to elect to waive the right to a hearing and may be assigned directly into a defensive driving course in lieu of suspension. The Department shall provide the driver a hearing before a hearing officer on the date and at the time specified in the notice.
- (c) Drivers entering the Driver Improvement Program for the first time with more than twelve (12) accumulated points, but fewer than twenty-one (21) points, who choose to be assigned directly into a defensive driving course in lieu of a six (6) month suspension will expressly waive their right to an administrative hearing by making this selection. They shall be notified in writing of their options and the consequences of choosing to be assigned directly into a defensive driving course. They shall also be notified in writing of the location, address and telephone number of approved defensive driving courses, and instructions for compliance.
- (d) First offender drivers who accumulate more than twenty (20) points within a twelve (12) month period shall not be offered the option to waive their right to an administrative hearing and to be assigned directly into a defensive driving course. The notice shall advise the driver that the driver has accumulated sufficient points in a twelve (12) month period to be placed in the Driver Improvement Program and that the driver may be suspended for a period of either six (6) or twelve (12) months, depending on the driver's driving record. The notice shall also provide the driver with written notice of the right to request an administrative hearing. The driver's written request for a hearing must be received within thirty (30) days from the date of the notice. Upon receipt of a timely request for a hearing, the Department shall provide the driver a hearing before a hearing officer.
- (e) Following completion of the defensive driving course and notification to the Department of such completion, the driver shall be placed on probation for a period of twelve (12) months.
- (f) A driver has ninety (90) days from the date of the letter assigning the driver to attend a defensive driving course or ninety (90) days from the date of the driver's hearing to attend a defensive driving course. Failure to complete an assigned defensive driving course shall result in the suspension of the driver license or certificate for driving for six (6) months. A driver may request an extension of time to attend the defensive driving course, provided that the request shall be made in writing at least ten (10) days before the expiration of the ninety (90) day period to attend a defensive driving course. The Department may grant an extension of time to attend the defensive driving course if the driver shows good cause. Good cause for and the length of such extension shall be determined by the Department. The Department shall notify the driver in writing of its decision.
- (g) If no certificate of completion has been received by the Department within seventy-five (75) days from the date of being assigned to attend a defensive driving course, a warning letter shall be issued to the driver advising that the driver was assigned to complete the defensive driving course to avoid suspension of driving privileges, that no proof of completion has been received, and that failure to comply immediately shall result in the suspension of driving privileges for six (6) months.

(Rule 1340-1-4-.04, continued)

- (h) Violation of Probation—The first crash or violation with an event date as determined in paragraph (6) posted to the record of a driver on probation may not trigger any departmental action for violation of probation and a warning letter may be sent to the driver that advises the driver that a crash or violation has been posted to the record of the driver during the probationary period and any further crash or violation within the probationary period shall be a violation of probation. If a second crash or violation with an event date as determined in paragraph (6) is posted to the record of a driver on probation, the notice shall advise the driver that a crash or violation has been posted to the driver's record and the driver may be suspended for a period of either six (6) or twelve (12) months, depending on the driver's driving record. The notice shall also provide the driver with written notice of the right to request an administrative hearing. The driver's written request for a hearing must be received within thirty (30) days from the date of the notice and state why the proposed action should not occur. Upon receipt of a timely request for a hearing, the Department shall provide the driver a hearing before a hearing officer.
 - (i) At the discretion of the Department, a driver under Driver Improvement Program suspension may be issued a restricted driver license or certificate for driving. The Department may place conditions on the driver license or certificate for driving as the Department may determine to be appropriate to insure the safe operation of a motor vehicle by the driver. To obtain a restricted driver license or certificate for driving, the driver must complete an application, furnish proof of SR22, pay the restricted driver license or certificate for driving fee and pass the driver examination. A driver may be issued only one (1) restricted driver license or certificate for driving in a five (5) year period.
 - (j) Administrative Probation - For good cause or in extreme circumstances (to be determined by the Department), the Department may place a first offender driver on administrative probation in lieu of suspension. In this event, no suspension of the driver license or certificate for driving shall occur, the probationary period shall be for twelve (12) months, and the driver shall carry all posted points during this time. Good cause or extreme circumstances may include, but not be limited to, drivers temporarily out of the state or country due to the military, employment or education or serious illness.
 - (k) Violation of administrative probation shall follow the same procedure as violation of probation subsequent to the completion of a defensive driving school. Placement on administrative probation is a substitute for completion of a defensive driving course and a driver who violates administrative probation shall not be eligible to attend a defensive driving course.
- (8) Second or Subsequent Offenders
- (a) A notice of proposed suspension shall be sent to second or subsequent offender drivers who accumulate twelve (12) or more points within a twelve (12) month period as calculated pursuant to Paragraph (6). The notice shall advise the driver that the driver has accumulated sufficient points in a twelve (12) month period to be placed in the Driver Improvement Program and that the driver may be suspended for a period of either six (6) or twelve (12) months, depending on the driver's driving record. The notice shall also provide the driver with written notice of the right to request an administrative hearing. The driver's written request for a hearing must be received within thirty (30) days from the date of the notice and state why the proposed action should not occur. Upon receipt of a timely request for a hearing, the Department shall provide the driver a hearing before a hearing officer.
 - (b) Drivers who accumulate twelve (12) or more points within a twelve (12) month period and who have attended a defensive driving course in lieu of suspension within the previous five (5) year

(Rule 1340-1-4-.04, continued)

- period shall have their driver license or certificate for driving suspended for a period of six (6) months.
- (c) A driver entering the Driver Improvement Program for a second or subsequent time who has previously attended a defensive driving course in lieu of suspension within the previous five (5) period, and who is currently undergoing, or has previously undergone within the five (5) year period, Driver Improvement Program suspension of a driver license or certificate for driving, shall have driving privileges suspended for twelve (12) months.
 - (d) A driver entering the Driver Improvement Program for a second or subsequent time, but who has not attended a defensive driving course previously within the five (5) year period may be offered the option to attend a defensive driving course in lieu of suspension of driving privileges.
 - (e) An eligible driver who elects to attend a defensive driving course in lieu of suspension shall be given ninety (90) days from the date of the letter assigning them to attend a course, or ninety (90) days from the date of their hearing to complete a defensive driving course.
 - (f) Failure to complete an assigned defensive driving course shall result in the suspension of the driver license or certificate for driving for six (6) or twelve (12) months, depending on whether the driver has previously attended a defensive driving course. A driver may request an extension of time to attend the defensive driving course, provided that the request shall be made in writing at least ten (10) days before the expiration of the ninety (90) day period to attend a defensive driving course. The Department may grant an extension of time to attend the defensive driving course if the driver shows good cause. Good cause for and the length of such extension shall be determined by the Department. The Department shall notify the driver in writing of its decision.
 - (g) If no certificate of completion has been received by the Department within seventy-five (75) days from the date of being assigned to attend a defensive driving course, a warning letter shall be issued to the driver advising that the driver was assigned to complete the defensive driving course to avoid suspension of driving privileges, that no proof of completion has been received, and that failure to comply immediately shall result in the suspension of driving privileges for six (6) or twelve (12) months, depending on whether the driver has previously attended a defensive driving course.
- (9) A hearing officer shall hold the administrative hearing. The hearing officer will explain the Driver Improvement Program, review the driver's driving record, and advise the driver of the options, e.g., whether the driver is eligible to attend a defensive driving course in lieu of suspension of driving privileges.
 - (10) In any administrative hearing pursuant to T.C.A. §§ 55-12-105, 55-12-129, 55-50-502 or 55-50-505, when any driver who fails to appear at the hearing after receiving proper notice, such driver shall be defaulted. Upon default by a party, the hearing officer may enter either an initial default order or an order for an uncontested proceeding. The driver's case shall be dismissed and the driver's driver license or certificate for driving shall be revoked or suspended pursuant to the applicable statute. A default order must be in writing, with reasons given and appeal rights stated.
 - (11) Any driver whose driver license or certificate for driving is suspended under the Driver Improvement Program by the hearing officer is eligible to appeal the suspension through the appeals process contained in the Uniform Administrative Procedures Act (T.C.A. §4-5-101 et seq.).
 - (12) Reinstatement

(Rule 1340-1-4-.04, continued)

- (a) Provided there is no other revocation, suspension, or cancellation action in effect, a driver will be eligible to regain driving privileges once the driver has served the period of suspension, paid a restoration fee, filed proof of SR22 and passed the driver examination.
 - (b) A suspended driver who fails to attend the assigned defensive driving course may be permitted to reinstate driving privileges prior to the eligibility date upon furnishing proof to the Department of attendance and completion of a Department approved defensive driving course. A list of all Department approved defensive driving courses shall be provided to the driver. The driver shall be required to comply with all reinstatement requirements provided for in these rules. Upon furnishing documentation of completion of the defensive driving course, the driver shall be placed on probation for twelve (12) months and all conditions of probation shall apply.
- (13) Drivers less than eighteen (18) years of age on the event date of any crash or violation:
 - (a) Each time a crash or violation is posted to the driver's record, the computer shall scan back for a period of twenty-four (24) months from the posted date to determine whether the driver has accumulated three (3) or more points within a twelve (12) month period to warrant a proposed suspension notice.
 - 1. Any crash or violation with an event date prior to the date of the completion of the defensive driving course shall be posted as points calculated as set forth in subparagraph (a).
 - 2. Any crash or violation with an event date subsequent to the date of completion of the defensive driving course shall be calculated as a violation of probation and may be grounds for revocation of probation.
 - (b) A notice of proposed suspension shall be sent to first offender drivers who accumulate seven (7) or more points within a twelve (12) month period as calculated pursuant to subparagraph (a). The twelve (12) month period shall be calculated retroactively from the date each crash or violation posted in accordance with subparagraph (a). The notice shall advise the driver and the driver's parent/guardian that the driver has accumulated sufficient points in a twelve (12) month period to be placed in the Driver Improvement Program and that the driver and the driver's parent/guardian shall be required to appear at an administrative hearing to contest the proposed suspension. The Department shall provide the driver a hearing before a hearing officer on the date and at the time specified in the notice. If the hearing officer upholds the determination of the Department, the driver license or certificate for driving shall be suspended for a period of six (6) months and such driver shall be required to attend a defensive driving course before such driver shall be eligible to reinstate such driver license or certificate for driving. However, if a driver fails to appear for the scheduled hearing or request in writing that the hearing be rescheduled, the driver license or certificate for driving shall be suspended for a period of six (6) months and the driver shall be required to attend a defensive driving course before such driver shall be eligible to reinstate the driver license or certificate for driving.
 - (c) A notice of proposed suspension shall be sent to any first offender driver who has accumulated from three (3) to six (6) points within a twelve (12) month period as calculated pursuant to subparagraph (a). The notice shall advise the driver and the driver's parent/guardian that the driver has accumulated sufficient points in a twelve (12) month period to be placed in the Driver Improvement Program and that the driver and the driver's parent/guardian shall be required to appear at an administrative hearing to contest the proposed suspension. The Department shall provide the driver a hearing before a hearing officer on the date and at the time specified in the notice. If the hearing officer upholds the determination of the Department, the hearing officer may suspend the driver license or certificate for driving for a period of three (3) to six (6) months and/or require the driver to attend a defensive driving course before such

(Rule 1340-1-4-.04, continued)

driver shall be eligible to reinstate such driver license or certificate for driving. However, if a driver fails to appear for a hearing or request in writing that the hearing be rescheduled, the driver license or certificate for driving shall be suspended for a period of six (6) months and the driver shall be required to attend a defensive driving course before the driver shall be eligible to reinstate the driver license or certificate for driving.

- (d) Any driver who has accumulated fewer than three (3) points for any crash or violation shall receive a warning letter from the Department, with a copy sent to the driver's parent/guardian.
- (e) A notice of proposed suspension shall be sent to second or subsequent offender drivers who accumulate three (3) or more points within a twelve (12) month period as calculated pursuant to subparagraph (a), with a copy of the notice sent to the driver's parent/guardian. The notice shall advise the driver and the driver's parent/guardian that the driver has accumulated sufficient points in a twelve (12) month period to be placed in the Driver Improvement Program and that the driver and the driver's parent/guardian shall be required to appear at an administrative hearing to contest the proposed suspension. The Department shall provide the driver a hearing before a hearing officer on the date and at the time specified in the notice. If the hearing officer upholds the determination of the Department, the driver license or certificate for driving shall be suspended for a period of one (1) year and the driver shall be required to attend a defensive driving course before the driver shall be eligible to reinstate the driver license or certificate for driving. However, if the driver fails to appear for a hearing or request in writing that the hearing be rescheduled, the driver license or certificate for driving shall be suspended for a period of one (1) year and the driver shall be required to attend a defensive driving course before the driver shall be eligible to reinstate the driver license or certificate for driving.
- (f) A driver has ninety (90) days from the date of the letter/order assigning the driver to attend a defensive driving course or ninety (90) days from the date of the driver's hearing to attend a defensive driving course. Failure to complete an assigned defensive driving course shall result in the suspension of the driver license or certificate for driving for six (6) or twelve (12) months, depending on whether the driver has previously attended a defensive driving course. A driver may request an extension of time to attend the defensive driving course, provided that the request shall be made in writing at least ten (10) days before the expiration of the ninety (90) day period to attend a defensive driving course. The Department may grant an extension of time to attend the defensive driving course if the driver shows good cause. Good cause for and the length of such extension shall be determined by the Department. The Department shall notify the driver in writing of its decision.
- (g) If no certificate of completion has been received by the Department within seventy-five (75) days from the date of being assigned to attend a defensive driving course, a warning letter shall be issued to the driver advising that the driver was assigned to complete the defensive driving course to avoid suspension of driving privileges, that no proof of completion has been received, and that failure to comply immediately shall result in the suspension of driving privileges for six (6) months.
- (h) After reinstatement of the driver license or certificate for driving, the driver shall be placed on probation for a period of twelve (12) months. Any crash or violation with an event date subsequent to the date of completion of the defensive driving course shall be considered a violation of probation. The driver shall be notified in writing by the Department that any crash or violation with an event date subsequent to the date of completion of the defensive driving course posted to the driver's record shall be cause for revocation of probation and suspension of the license or certificate for driving for six (6) months.

(Rule 1340-1-4-.04, continued)

- (i) A notice of proposed revocation of probation shall be sent to any driver who is on probation and who has any crash or violation with an event date as determined in subparagraph (a) posted to the driver's record. A copy of the notice shall be sent to the driver's parent/guardian. The notice shall advise the driver and the driver's parent/guardian that the driver has a crash or violation with an event date as determined in subparagraph (a) posted to the driver's record and that the driver and the driver's parent/guardian shall be required to appear at an administrative hearing to contest the proposed suspension. The Department shall provide the driver a hearing before a hearing officer on the date and at the time specified in the notice. If the hearing officer upholds the determination of the Department, the driver license or certificate for driving shall be suspended for a period of six (6) months and the driver shall be required to attend a defensive driving course before the driver shall be eligible to reinstate the driver license or certificate for driving. However, if a driver fails to appear for a hearing, the driver license or certificate for driving shall be suspended for a period of six (6) months and the driver shall be required to attend a defensive driving course before the driver shall be eligible to reinstate the driver license or certificate for driving.
- (j) If a driver is eighteen (18) years or older at the time of the hearing provided by the Department pursuant to the driver's timely request for a hearing and the hearing officer upholds the determination of the Department, the driver may be eligible to apply for a restricted driver license or certificate for driving.
- (k) There shall be no limit to the number of times that the Department may require a driver to attend a defensive driving course.

Authority: T.C.A. §§55-12-103, 55-12-105, 55-12-119, 55-12-129, 55-50-202, 55-50-331, 55-50-322, 55-50-502, and 55-50-505. **Administrative History:** Repeal and new rule filed March 12, 1986; effective June 14, 1986. Repeal and new rule filed August 5, 1996; effective December 27, 1996. Amendments filed April 18, 2005; effective August 26, 2005.

1340-1-4-.05 DEFENSIVE DRIVING/ACCIDENT PREVENTION COURSES.

- (1) Defensive Driving Course Provider Requirements:
 - (a) A current State or County business license.
 - (b) Must be at least twenty-one (21) years of age, a high school graduate or passed the GED, have and maintain a valid driver license that has not been revoked, suspended or cancelled for any reason in the three (3) years preceding the date of application and no conviction for a felony or any crime involving violence, dishonesty, deceit, fraud, or indecency, and not an employee of the Department.
 - (c) Submit an Application supplied by the Department to the Department's Driver Improvement Unit.
 - (d) Be insured in the amount(s) set forth herein.
 - (e) Provide an eight (8) hour defensive driving class.
 - (f) Issue a certificate of completion on a form supplied by the Department to each student who has successfully completed the defensive driving course. Such certificate shall have thereon the student's full name, driver license number, date of birth, course name, hours completed and the defensive driving course Provider's name and address.
 - (g) Comply with or exceed the minimum standards set forth herein.

(Rule 1340-1-4-.05, continued)

- (h) Only use instructors who meet the qualifications set forth herein.
 - (i) Maintain the following records for a period of three (3) years and ensure that such records are available for inspection by the Department during business hours:
 - 1. A roster of each class, listing the course name, location, instructor's full name, student names, driver license numbers and date of birth.
 - 2. A receipt for each student stating the student's full name, driver license number and amount paid.
 - 3. A list of students who have successfully completed the defensive driving course, with each student's full name, driver license number, date of birth, course name and class location.
 - 4. Course material, which shall include the most recent material to teach crash prevention, safety and defensive driving.
 - 5. Any other records that may be required by the Department.
 - (j) Ensure compliance with all Department rules and regulations.
 - (k) Immediately notify the Department by mail, facsimile or electronic transmission of any change(s) in information on the application or any change in ownership or instructors.
 - (l) Be open for periodic (with or without notice) on-site inspection by the Department.
 - (m) Have a minimum of one (1) instructor per fifty (50) students during classroom instruction, with a maximum of fifty (50) students in any class.
 - (n) Shall not hire any person as an instructor or otherwise who is an employee of the Department.
 - (o) Comply with the requirements of the Americans with Disabilities Act of 1990.
- (2) Defensive Driver Course Instructor Requirements:
- (a) Must be at least twenty-one (21) years of age, high school graduate or passed the GED, have and maintain a valid driver license that has not been revoked, suspended or cancelled for any reason in the three (3) years preceding the date of hire, no conviction for a felony or any crime involving violence, dishonesty, deceit, fraud, or indecency and not an employee of the Department.
 - (b) As of July 1, 2005, shall have attended and successfully completed a Defensive Drivers Instructors School operated by AAA, National Safety Council or such other certified school approved by the Department. Such school shall send a copy of the instructor's certificate of completion to the Department's Driver Improvement Unit. The instructor shall maintain current certification.
- (3) Financial Responsibility:
- (a) Each defensive driving course Provider shall attach a certificate of insurance from an insurer authorized to do business in Tennessee to its application:

(Rule 1340-1-4-.05, continued)

1. The certificate shall state that the School has liability insurance in the amount of \$300,000.00.
 2. The certificate shall stipulate that the insurance shall not be canceled except upon ten (10) days prior notice to the Department.
- (b) The Insurance Policy shall be available for inspection during business hours.
- (c) For the protection of the contractual rights of students, each defensive driving course Provider shall have a continuous surety company bond in the principal sum of \$7,500.00 from a company approved by the Department that is authorized to do business in Tennessee. Provided, however, that the aggregate liability of the surety for all breaches of the condition of the bond in no event shall exceed the principal sum of \$7,500.00. The surety on any such bond may cancel such bond on giving thirty (30) days notice in writing to the Department and shall be relieved of liability for any breach of any condition of the bond which occurs after the effective date of cancellation. Proof of such surety bond shall be attached to the application.
- (4) Denial, Revocation or Suspension:
- (a) The Department may deny, revoke or suspend the defensive driving course Provider or Instructor for any violation of the law, rules or regulations relating to the operation of a defensive driving course.
 - (b) The Department may deny, revoke or suspend the defensive driving course Provider or Instructor for actions including, but not limited to the following:
 1. Conviction of a Provider or Instructor for a felony or any crime involving violence, dishonesty, deceit, fraud or indecency.
 2. Knowingly presenting false or misleading information to the Department.
 3. Failure or refusal to permit the Department to inspect, audit or investigate the defensive driving course premises, the defensive driving course class, instruction records, financial records, etc.
 4. Failure to submit the application with supporting documentation within the prescribed time limit.
 5. Failure to maintain Department approved standards in instruction, equipment or facilities.
 6. The presence of alcoholic beverages or narcotic drugs on the premises.
 7. The presence of any type of weapon on the premises, except a weapon carried by a commissioned law enforcement officer.
- (7) Hearing:
- (a) Any Provider or Instructor of a defensive driving course who has been denied, revoked or suspended shall have the right to request a hearing in writing within thirty (30) days of the date of written notification of such action.
 - (b) The hearing shall be before the Commissioner or the Commissioner's designee and held in accordance with the Uniform Administrative Procedures Act (T.C.A. §4-5-101, et seq.).

(Rule 1340-1-4-.05, continued)

- (8) The criteria set forth in this rule shall also apply to accident prevention courses for older drivers as provided for in T.C.A. §56-7-1107.

Authority: T.C.A. §55-50-505 and 56-7-1107. **Administrative History:** Repeal and new rule filed March 12, 1986; effective June 14, 1986. Repeal and new rule filed August 5, 1996; effective December 27, 1996. Repeal and new rule filed April 18, 2005; effective August 26, 2005.

1340-1-4-.06 SUSPENSION OF DRIVER LICENSE OR CERTIFICATE FOR DRIVING FOR PHYSICAL OR MENTAL DISABILITIES.

(1) Mental Standards:

- (a) Any driver who has been adjudged by a court of competent jurisdiction or has been evaluated by a psychiatrist, psychologist, or mental health facility and found to be suffering from any mental disease or disease including substance abuse, may have the driver's driving privileges suspended until such time as the driver has been restored to competency by court order, order from the superintendent of the mental facility, or other such method provided by law. The driver must apply through the Driver Improvement Unit to receive a clearance/reinstatement order in order to recover, retain or obtain driving privileges.
- (b) If the driver claims to have been restored to competency, a certified copy of the court order or a written statement from a licensed psychiatrist or psychologist or mental health facility must first be mailed to the Driver Improvement Unit by such court, psychiatrist, psychologist or mental health facility.
- (c) After reviewing the certified court order or statement, the Department shall determine if the driver's driving privilege shall be reinstated. If approved, the driver will receive a clearance/reinstatement order from the Driver Improvement Unit.

(2) Physical Standards

- (a) In all cases where medical statements are needed, the complaint/data must first be reviewed by the Department. Drivers who may be physically unfit to operate a motor vehicle upon the streets or highways of Tennessee may be identified in the following manner, and the review process invoked:
 - 1. A written complaint from a police officer or driver license examiner;
 - 2. Data contained in an accident report completed by a police officer or data voluntarily submitted by the driver in question;
 - 3. Data provided by any reliable individual as determined by the Department obtained through the receipt of a signed letter;
 - 4. Drivers previously suspended and requesting a re-evaluation of their record due to a purported change in the status of mental or physical health;
 - 5. Written referrals or complaints from physicians or medical professionals; or
 - 6. Data obtained from courts, individuals, or information that would appear to be reliably obtained through other sources.
- (b) In cases where the Department receives such reports from other sources, e.g., private citizens, newspaper stories, accident reports not investigated by officers, or confidential information,

(Rule 1340-1-4-.06, continued)

written notice shall be sent notifying the driver that the information has been received, that the driver license or certificate for driving may be suspended and that the driver has the opportunity to request an administrative hearing within thirty (30) days from the date of the notice. The driver may be required to submit additional information. At the administrative hearing, the driver may be questioned concerning the driver's physical condition and the driver may be asked to submit a medical statement. No action will be taken until the conclusion of the investigation or hearing, and any action at such time will be determined by the results of the investigation or hearing.

- (c) The Department shall notify in writing drivers reported to have a medical problem and the Department shall provide the appropriate medical statement forms and instructions to each driver undergoing a review to determine if the driver's driving privileges should be suspended.
- (d) The medical statement(s) must be completed by a licensed physician and should contain sufficient information regarding the driver's medical condition to enable the Department to determine whether the driver should be permitted to retain or obtain driving privileges. The physician shall be requested to provide an opinion about the driver's ability to drive. The physician's opinion, which is not binding on the Department, will be given consideration in conjunction with other available information.
- (e) The medical forms completed by the physician will be reviewed and one or more of the following actions shall take place:
 - 1. If the physician documents that the driver does not have a medical problem relating to the operation of a motor vehicle, the case may be closed. If the case is not closed, it may be referred to the Medical Review Board to reconcile differences in the complaint and the physician's statement.
 - 2. If the physician cannot positively document that the person does not have a medical condition relating to the operation of a motor vehicle, or if the physician feels that the person should not be allowed to drive for medical reasons, or if the Department so chooses, the medical forms may be forwarded to the Medical Review Board.
 - 3. The Medical Review Board may recommend the suspension of the driver license or certificate for driving and the conditions for the suspension. Upon receipt of the Medical Review Board's recommendation, the Commissioner shall determine the status of the driver's driving privileges. Such determination may be appealed pursuant to the provisions of the Uniform Administrative Procedures Act.
- (f) The Department may require the driver to submit to a special driver examination in lieu of, or in addition to, the medical review process.
- (g) Drivers who fail to furnish the Department with the required medical information will have their driving privileges suspended until such time as a favorable medical report is received and restoration of driving privileges is approved.
- (h) The Department may use independent medical review boards to review and make recommendations if a driver is reported to have a mental or physical condition. The review boards will consist of licensed physicians in fields of specialized or general medicine. Physicians may serve on the medical review board in a voluntary capacity, or they may be paid by the Department if the Department deems such payment appropriate. The recommendations of the medical review board shall not be binding upon the Department.

(Rule 1340-1-4-.06, continued)

- (i) The Department shall not issue a driver license or certificate for driving to anyone who suffers from uncontrolled epilepsy (also known as a seizure disorder), momentary lapses of consciousness or control due to epilepsy, cardiac syncope, diabetes, or other conditions until the driver has remained seizure-free or lapse free for a period of one (1) year, and then only upon receipt of a favorable medical statement from the driver's physician. Provided, however, the driver may be approved for driving privileges if the driver's condition has been controlled for six (6) months and the Department receives a favorable recommendation from the driver's physician and the Medical Review Board and the Department approves the issuance of the driver license or certificate for driving.
- (j) The medical statement must contain the following information:
 - 1. The cause of the seizures, lapses, blackouts or loss of consciousness or control;
 - 2. The frequency of the seizures, lapses, blackouts or loss of consciousness or control;
 - 3. The medication taken, if any, and the affect the medication will have on the driver's ability to drive;
 - 4. The driver's compliance with treatment and/or medication; and
 - 5. The physician's recommendation regarding driving ability.
- (k) In the following cases, the driver may be immediately suspended until the driver submits the medical statement required by subparagraph (j) and the medical statement is reviewed in accordance with this rule:
 - 1. The driver admits to a history of seizures or other conditions that affects driving ability; or
 - 2. A person practicing in the medical profession submits information that a driver has a condition that affects driving ability;
 - 3. A person who has witnessed the driver's inability to drive because of a seizure or other condition submits information;
 - 4. Friends or relatives who know the driver's condition submit information that a driver has a condition that affects driving ability; or
 - 5. Courts or persons who have access to reliable information submit information that a driver may have a condition that affects driving ability.
- (l) The procedure set forth in this rule also applies to other physical or mental disabilities where the Department has good cause to believe the driver would not be able to safely operate a motor vehicle because of lapses of consciousness or control.
- (m) Drivers who have physical disabilities that can be compensated for by the use of physical controls or mechanical devices which enable the driver to safely operate a motor vehicle may be approved for licensing if they meet all other appropriate eligibility criteria.
- (n) Drivers who are hearing impaired shall be restricted to the operation of vehicles equipped with left and right outside rear-view mirrors.

(Rule 1340-1-4-.06, continued)

- (o) Vision standards, including telescopic/biopic lens use by drivers with low vision, are located in the rules of the Driver License Issuance Division of the Department of Safety.
- (p) Any driver may request an administrative hearing before a hearing officer within thirty (30) days from the date of written notification of the proposed suspension action. Any driver whose driving privileges have been suspended as a result of a physical or mental disability may appeal the decision of the Department by filing a petition pursuant to the Uniform Administrative Procedures Act (T.C.A. §4-5-101 et seq.).

Authority: T.C.A. §§55-50-303, 55-50-502, and 55-50-505. **Administrative History:** Original rule filed March 12, 1986; effective June 14, 1986. Repeal and new rule filed August 5, 1996; effective December 27, 1996. Amendments filed April 18, 2005; effective August 26, 2005.

1340-1-4-.07 SUSPENSION OF DRIVER LICENSE OR CERTIFICATE FOR DRIVING FOR FAILING TO PASS OR SUBMIT TO RE-EXAMINATION.

- (1) The Department may, upon receiving evidence sufficient to establish that a driver is incompetent to operate a motor vehicle or is otherwise not qualified to be licensed, upon written notice of at least thirty (30) days to the driver, require such driver to submit to a driver re-examination and/or submit other information as deemed appropriate. Such notice shall also inform the driver that the driver may request an administrative hearing within thirty (30) days from the date of the notice. Pending the hearing, the Department may suspend the driver license or certificate for driving or permit the driver to retain the driver license or certificate for driving. If a driver fails to request a hearing, the Department shall suspend the driver license or certificate for driving.
- (2) Refusal or neglect of a driver to submit to a re-examination shall be grounds for suspension of the driver license or certificate for driving.
- (3) Periodic re-examinations may be required, such as once a year, in the case of physical or mental conditions, or where there is a deterioration of the visual acuity or motor nerve response.
- (4) A driver required to undergo re-examination by the Department may take the written and/or vision portion of the driver examination test without limitation.
- (5) A driver required to undergo re-examination by the Department may take the on-the-road skills portion of the driver examination test three (3) times at thirty (30) day intervals. If successful, driving privileges shall be reinstated. If the driver does not pass the road test in three (3) attempts, the driver shall not be eligible to re-test for six (6) months from the date of the third test. If the driver does not pass the re-test(s) taken after waiting the six (6) month period, the driver shall not be eligible to re-test for twelve (12) months from the date of the last driver examination.
- (6) Drivers with a commercial driver license may be required to submit to re-examination in their commercial vehicle or school bus. If the driver fails the re-examination in the driver's commercial vehicle or school bus but wishes to downgrade to a Class D license, the driver may do so after successfully passing a complete examination in their personal vehicle.
- (7) Drivers who fail to submit to re-examination as required, or who fail to pass the re-examination, or who do not ask for an administrative hearing shall have their driving privileges suspended until such time as they comply with the re-examination requirement.
- (8) Any driver required by the Department to undergo re-examination shall be notified that the driver may request an administrative hearing, provided such request is submitted in writing within thirty (30) days after the date of the written notice. Upon receipt of a request for an administrative hearing, the Department shall provide the driver a hearing before a hearing officer.

(Rule 1340-1-4-.07, continued)

- (9) Any driver whose driver license or certificate for driving is suspended under the Driver Improvement Program may appeal the suspension through the appeals process contained in the Uniform Administrative Procedures Act (T.C.A. §4-5-101 et seq.).

Authority: T.C.A. §§55-50-202, 55-50-303, 55-50-322, 55-50-502, and 55-50-505. **Administrative History:** Repeal of and new rule filed March 12, 1986; effective June 14, 1986. Repeal and new rule filed August 5, 1996; effective December 27, 1996. Amendments filed April 18, 2005; effective August 26, 2005.